

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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RUDOLPH A. WARTELLA, III,

Plaintiff-Appellee,

v

WILLIAM B. WARD and ELDRIDGE J. KING,

Defendants-Appellants,

and

SUSAN K. KULASZEWSKI, JAMES ZELMANSKI,  
D/SGT PAUL BROWN, GLENN JOHNSON,  
KENNETH J. GROENVELD, and TERRY NOVAKOSKI,

Defendants.

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Before: Holbrook, Jr., P.J., and Wahls and Cavanagh, JJ.

PER CURIAM.

Defendants Ward and King appeal by leave granted the circuit court order denying in part their motion for summary disposition. We affirm.

Plaintiff was a candidate for the position of 39<sup>th</sup> District Judge in the November 1994 election. Defendant Ward, the incumbent, was his opponent. Defendant King is the 39<sup>th</sup> District Court Administrator. The Roseville Police Department learned of the existence of an outstanding 1988 bench warrant issued by Kent Circuit Court for plaintiff's failure to pay child support. This information was conveyed to defendant King, who confirmed the information through a LEIN request in May 1994. King then informed Judge Ward of the outstanding warrant.

Prior to a scheduled television appearance in early September 1994, defendant King again confirmed the existence of the warrant, and informed Judge Ward that the warrant was still outstanding. Judge Ward contacted the Kent Circuit Court, and informed the Kent County Friend of the Court that

plaintiff was scheduled to appear on a cable television candidates forum later that month. Plaintiff was subsequently arrested at the television studios.

Plaintiff filed multiple actions in state and federal court. All of plaintiff's federal claims were eventually dismissed. On April 22, 1996, defendants Ward and King filed a motion for summary disposition pursuant to MCR 2.116(C)(8) and (10) on all of plaintiff's remaining state claims.<sup>1</sup> On December 26, 1996, the trial court granted defendants' motion on all claims except that predicated on 1981 AACCS, R 28.5208(3). The trial court found that summary disposition on this claim was inappropriate given that the factual record did not preclude plaintiff from proving that defendants made personal use of the LEIN information.

While defendants may have had a right to access LEIN information, the circumstances of this case give rise to the reasonable inference that defendants made an improper personal use of the information in this case. In *Mitchell v Cole*, 176 Mich App 200, 209; 439 NW2d 319 (1989), this Court held that a plaintiff could maintain a cause of action for violation of 1981 AACCS, R 28.5208(3), where there are facts from which a reasonable factfinder could infer that LEIN information was improperly used for personal purposes. The *Mitchell* Court found that the fact that one of the defendants had held onto LEIN information for six days and then reported it just before the affected plaintiff was scheduled to meet with another defendant to discuss disciplinary charges pending against another plaintiff gave rise to an inference of improper use. In the case at hand, although defendants Ward and King obtained the information in May 1994, they did not act on the information until the September 1994 candidates forum. The reporting of the information after a four month delay gives rise to the inference that the information was used improperly. The inference is further supported by the fact that defendant King passed the information on to Judge Ward, even though King averred that he does not work under the direction of Judge Ward. King provided no explanation for why he reported the warrant information to Judge Ward. We believe that in these circumstances a reasonable trier of fact could conclude that defendants used the LEIN information for an improper personal purpose. Therefore, the trial court properly denied in part defendants' motion for summary disposition. *Stehlik v Johnson (On Remand)*, 206 Mich App 83, 85; 520 NW2d 633 (1994).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Myron H. Wahls

/s/ Mark J. Cavanagh

<sup>1</sup> Summary disposition was granted by the trial court to defendants Kulaszewski, Zelmanski, Brown, Johnson, Groenveld and Novakoski on April 12, 1996.